

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARVIN ODUMS,

Plaintiff,

**MEMORANDUM AND ORDER**

18-CV-6292 (RRM) (LB)

-against-

NANCY SUNSHINE, dba, Court Clerk; NEW YORK KINGS COUNTY SUPREME COURT; JEFFERY JILIANE, dba as CEO of Greenpoint Mortgage Funding, Inc.; RICHARD D. FAIRBANK, CEO, dba as CEO of Capital One Bank N.A.; and CHARLMONIQUE DUNN, Capital One, dba, service representative,

Defendants.

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ROSLYNN R. MAUSKOPF, Chief United States District Judge.

On November 1, 2018, plaintiff Marvin Odums brought this *pro se* action seeking a declaratory judgment against the New York State Supreme Court, Kings County, and one of its clerks, Nancy Sunshine, along with individual employees of financial institutions – Jeffrey Jiliane, the CEO of Greenpoint Mortgage Funding, Inc., Richard Fairbank, the CEO of Capital One Bank N.A., and Charlmonique Dunn, a service representative of Capital One. (Compl. (Doc. No. 1).) The Court grants plaintiff’s application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 for the limited purpose of this Order. For the reasons that follow, plaintiff’s request for declaratory judgment is denied.

**BACKGROUND**

Plaintiff’s claims arise out of a judgment of foreclosure against property located at 302 Malcolm X Boulevard, Brooklyn, NY 11233 (“Property”). The instant submission requests a Declaratory Judgment and asserts the jurisdiction of this Court pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 and § 2202; provisions of federal banking laws; and sections of

the United States Criminal Code. (Compl. (Doc. No. 1) at 1-2, 7, 8.) It does not seek monetary or injunctive relief, but seeks a declaratory judgment (1) establishing the past and current relationship between Greenpoint Mortgage Funding, Inc. and Capital One Bank; (2) finding that Capital One Bank engaged in fraud and is liable for harms caused plaintiff; and (2) declaring that the state foreclosure proceedings in New York State Supreme Court, Kings County, Index No. 27661/09 were invalid. (*Id.* at 13-14.)

Plaintiff filed a previous action against some of the same defendants in which he alleged that the foreclosure of Property was illegal and fraudulent. *Odums v. GreenPoint Mortgage Funding Inc., et al.*, 16-CV-6220-RRM-LB. This Court granted defendants' motion to dismiss on December 22, 2019, finding that plaintiff's claims were already adjudicated in the state-court action and thus were now precluded by the doctrine of *res judicata*.

### DISCUSSION

Plaintiff brings this action pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, which provides that “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States . . . may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.” 28 U.S.C. § 2201(a). However, the Act “does not by itself confer subject matter jurisdiction on the federal courts. Rather, there must be an independent basis of jurisdiction before a district court may issue a declaratory judgment.” *Correspondent Servs. Corp. v. First Equities Corp. of Fla.*, 442 F.3d 767, 769 (2d Cir. 2006) (internal citation omitted); *See Medtronic, Inc. v. Mirowski Family Ventures, LLC*, 571 U.S. 191, 197 (2014) (“[T]he Declaratory Judgment Act does not ‘extend’ the ‘jurisdiction’ of the federal courts.”)

To qualify as “a case of actual controversy” under the Declaratory Judgment Act, the Supreme Court has

required that the dispute be definite and concrete, touching the legal relations of parties having adverse legal interests; that it be real and substantial and admit of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.

*MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007) (quoting *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240-41 (1937) (internal quotations omitted)). There must be “a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.” *Id.* (quoting *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273 (1941) (internal quotations omitted)).

“The Declaratory Judgment Act confers on federal courts unique and substantial discretion in deciding whether to declare the rights of litigants.” *Peconic Baykeeper, Inc. v. Suffolk County*, 600 F.3d 180, 187 (2d Cir. 2010) (quoting *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286 (1995) (internal quotations omitted). “If a district court, in the sound exercise of its judgment, determines after a complaint is filed that a declaratory judgment will serve no useful purpose, it cannot be incumbent upon that court to proceed to the merits before staying or dismissing the action.” *Wilton*, 515 U.S. at 288 (upholding district court’s decision to stay an action for declaratory relief where “parallel proceedings . . . were underway in state court.”)

In this case, the only alleged controversy between plaintiff and the defendants is the validity of a long-closed foreclosure proceeding and plaintiff’s allegations of fraudulent behavior by defendants, precisely the issues plaintiff raised in *Odums v. GreenPoint Mortgage Funding, Inc., et al.*, 16-CV-6220-RRM-LB. As this Court has already considered these very issues in its December 22, 2019 Order in 16-CV-6220, no purpose will be served by making a separate ruling

on the legal rights of the parties. Accordingly, the Court exercises its discretion and hereby denies plaintiff's request for declaratory relief.

### CONCLUSION

For the reasons set forth above, plaintiff's request for a declaratory judgment is hereby denied. The Clerk of Court is directed to enter judgment and close the case. The Clerk of Court is further directed to mail a copy of this Order and the Judgment to Odums and note the mailing on the docket. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York  
May 19, 2020

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
Chief United States District Judge